

BOARD OF APPEALS
for
MONTGOMERY COUNTY

Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850
(240) 777-6600

Case No. A-5610

PETITION OF CHARLES SULLIVAN
(Hearing held June 27, 2001)

OPINION OF THE BOARD
(Effective date of Opinion, August 21, 2001)

This proceeding is a petition pursuant to Section 59-A-4.11(b) of Chap. 59, Mont. Co. Code 1994, as amended (the Zoning Ordinance) for a variance from Sections 59-C-1.323(a) and 59-B-3.1 of the Zoning Ordinance. The petitioner proposes to construct a covered front porch that requires a 5.60 foot variance as it is within 16.40 feet of the front lot line. The required front lot line setback is twenty-two (22) feet.

The subject property is Lot 22, Block 8, located at 7901 Pearl Street, Bethesda, Maryland, in the R-60 Zone, (Tax Account No. 00539448).

Decision of the Board: Requested variance **denied**.

EVIDENCE PRESENTED TO THE BOARD

1. The petitioner proposes to construct an unenclosed front porch. The petitioner testified that the proposed construction would make the porch a more useable outdoor space.
2. The petitioner testified that that residence is sited at the front of the lot, resulting in a very small front yard. The petitioner testified that the size of the lot and the narrowness of the lot result in a limited amount of useable space on his property.
3. The petitioner testified that the rear section of the lot is oddly shaped lot, resulting in a triangular shaped rear yard. The petitioner testified that the front section of the property is rectangular in shape and would have the least impact on the neighboring properties.

FINDINGS OF THE BOARD

Based on the petitioner's binding testimony and the evidence of record, the Board finds that the variance must be denied. The requested variance does not comply with the applicable standards set forth in Section 59-G-3.1(a) follows:

- (a) *By reason of exceptional narrowness, shallowness, shape, topographical conditions, or other extraordinary situations or conditions peculiar to a specific parcel of property, the strict applications of these regulations would result in peculiar or unusual practical difficulties to, or exceptional or undue hardship upon, the owner of such property.*

1. The Board finds that the oddly shaped rear yard is a condition that is peculiar to this property, however the condition is limited to the rear yard and has no impact on the front section of the property.
2. The Board finds that the need for the variance results from the siting of the dwelling and not the odd shape of the rear yard. The siting of structures on a particular property is not a standard that meets the requirements set forth for a variance in the Zoning Ordinance. The Board finds that the practical difficulties or undue hardship stated by the petitioner are not as a result of the existing topographical conditions of the property and therefore, do not meet the requirements of the provision stated above.

Since the petition does not meet the requirements of Section 59-G-1.3(a), the Board finds that it does not need to consider the other requirements for granting a variance. Accordingly, the requested variance of 5.60 feet from the twenty-two (22) foot required front lot line setback for the construction of covered front porch is denied.

The Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland, that the Opinion stated above be adopted as the Resolution required by law as its decision on the above entitled petition.

On a motion by Donna L. Barron, seconded by Louise L. Mayer, with Angelo M. Caputo and Donald H. Spence, Jr., Chairman, in agreement, the Board adopted the foregoing Resolution. Board member Mindy Pittell Hurwitz was necessarily absent and did not participate in this Resolution.

Donald H. Spence, Jr.
Chairman, Montgomery County Board of Appeals

I do hereby certify that the foregoing Opinion was officially entered in the Opinion Book of the County Board of Appeals this 21st day of August, 2001.

Katherine Freeman
Executive Secretary to the Board

NOTE:

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date of the Opinion is mailed and entered in the Opinion Book (see Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County in accordance with the Maryland Rules of Procedure.